

**GEORGIA LEGAL SERVICES PROGRAM
FARMWORKER RIGHTS DIVISION
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June 13, 2017

SUBMITTED ONLINE VIA: <https://foiaonline.regulations.gov/>

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: FOIA request for information regarding EPA and GDA Agreement

Dear Sir or Madam:

This letter serves as a formal request for information under the Freedom of Information Act, 5 U.S.C. § 552.

We request the following documents pertaining to the February 8, 2017 Informal Resolution Agreement between the U.S. Environmental Protection Agency (EPA) and the Georgia Department of Agriculture (GDA), which resolved External Civil Rights Compliance Office (ECRCO) Complaint No. 02NO-16-R4:

1. GDA's final draft of its written procedures to ensure meaningful access to all of GDA's programs and activities by all persons, including access by persons with Limited-English proficiency (LEP)
2. GDA's final draft of its written procedures to ensure meaningful access to all of GDA's programs and activities by persons with disabilities
3. GDA's final draft of its grievance procedures for complaints filed under the federal non-discrimination statutes
4. Any documents or other materials concerning language access sent between the EPA and the GDA from February 8, 2017 to June 13, 2017

The Georgia Legal Services Program is a nonprofit corporation whose mission is to provide civil legal services for persons with low incomes, creating equal access to justice and opportunities out of poverty.

AN AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER M/F/V/H

As these documents were drafted by a state agency, rather than a U.S. government agency, they are not exempt from disclosure under 5 U.S.C. § 552(b)(5); 5 U.S.C. § 551(1) (“‘agency’ means each authority of the Government of the United States.”). Moreover, the requested documents were not drafted to assist the EPA in its decision-making process, but instead were drafted by a state agency to fulfil its obligations with respect to an informal resolution agreement with the EPA. Because the informal resolution agreement concluded the EPA’s investigation and decision-making process, and because the GDA prepared the documents to create state procedures, rather than to assist the EPA in policymaking, the requested documents are not protected by the deliberative process privilege.

Additionally, we respectfully request for the fee to be waived according to 29 C.F.R. §70.41, as we are a nonprofit public service legal corporation seeking information on behalf of our clients concerning the operations of the U.S. Government. We also request an estimate of fees that are likely to be assessed, if any, in any amount exceeding \$50.00.

Under 29 C.F.R. § 70.41(a)(1), a requester may seek a waiver or reduction of fees after demonstrating that disclosure of the requested information: (i) “is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government” and (ii) “is not primarily in the commercial interest of the requester.” To determine whether the requested information is in the public interest, the agency considers (i) “the subject of the request,” (ii) “the informative value of the information,” (iii) “the contribution to the understanding of the subject by the public,” and (iv) “the significance of the contribution.” *See* 29 C.F.R. § 70.41(a)(2)(i)-(iv).

First, the request seeks information pertaining to the EPA’s activities, including its enforcement of federal nondiscrimination laws, including Title VI of the Civil Rights Act of 1964. 29 C.F.R. § 70.41(a)(2)(i). Second, the disclosure is “‘likely to contribute’” to an understanding of government activities, as the requested information is not already in the public domain, and will reveal information about the EPA’s implementation of its informal resolution agreements. 29 C.F.R. § 70.41(a)(2)(ii). Third, the requested information will significantly contribute to public understanding of government activities, as the information will enhance public understanding of GDA’s plan to comply with the federal nondiscrimination laws enforced by the EPA. 29 C.F.R. § 70.41(a)(2)(iii),(iv). The requested information will be conveyed to farmworkers and the general public, and will aid our efforts to educate workers about filing pesticide complaints. Complaint No. 02NO-16-R4, which was originally filed by our office, has already been reported on by media outlets.¹ Additionally, as a non-profit legal services agency that provides free legal services to low-wage farmworkers, Georgia Legal Services Program has no commercial interest in this matter. 29 C.F.R. § 70.41(a)(1)(ii).

All documents can be provided to us electronically either on CD-Rom or by email to documents@gafr.org. As you know, pursuant to 5 U.S.C. §552(a)(6)(A), a response is required within 20 days of your receipt of this request.

¹ *See e.g.*, Samantha Díaz Roberts, Mundo Legal: Desestimaron su querella por no hablar inglés, MUNDO HISPANICO, available at <https://mundohispanico.com/videos/mundo-legal-desestimaron-querella-por-no-hablar-ingles-video> (largest Spanish language weekly in Georgia).

Thank you for your assistance in this matter. If you have any questions about this request, please do not hesitate to contact me at (404) 463-1633 or lhoff-downing@glsp.org.

Sincerely,

A handwritten signature in cursive script that reads "Lauren Hoff-Downing".

Lauren Hoff-Downing
Staff Attorney